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8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA

10 * * *

11 VOIP-PAL.COM, INC., a Nevada corporation,
12
13 Plaintiff,
14 v.
15 TWITTER, INC., a California corporation,
16 Defendant.

CASE NO.: 2:16-cv-2338

**STIPULATION AND PROPOSED
ORDER TO STAY PENDING
FINAL WRITTEN DECISIONS BY
THE PATENT TRIAL AND APPEAL
BOARD IN *INTER PARTES* REVIEW
PROCEEDINGS**

17
18 It is hereby STIPULATED and AGREED between Plaintiff VoIP-Pal.com (“Plaintiff” or
19 “Voip-Pal”) and Defendant Twitter, Inc. (“Defendant” or “Twitter”), to stay litigation in this matter
20 until the Patent Trial and Appeal Board issues final written decisions in various pending IPR
21 proceedings involving the very patents at issue in this action. Good cause exists for the requested
22 stay:

23 1. VoIP-Pal filed this action on October 6, 2016, against Defendant, alleging
24 infringement of U.S. Patent Nos. 8,542,815 (the “’815 patent”) and 9,179,005 (the “’005 patent”).
25 (ECF No. 1);

26 2. Prior to filing this action, Voip-Pal filed two similar cases in this Court; specifically,
27 VoIP-Pal filed an action against Apple, Inc. (“Apple”) on February 9, 2016 also alleging
28 infringement of the ’815 patent and the ’005 patent. (No. 2:16-cv-00260-RFB-VCF (the “Apple

litigation”)). Likewise, on February 10, 2016, Voip-Pal filed an action against Defendants Cellco Partnership d/b/a Verizon Wireless (“Verizon”) and AT&T Corp. (“AT&T”) asserting the same claims (No. 2:16-cv-00271-RCJ-VCF (the “Verizon/AT&T litigation”));

3. On June 15, 2016, Apple filed a petition for *inter partes* review (“IPR”) by the Patent Trial and Appeal Board (“PTAB”) concerning the ‘815 patent (the “Apple ‘815 IPR petition”). Apple also petitioned the PTAB to conduct IPR on the ‘005 patent (the “Apple ‘005 IPR petition”);

4. In July 2016, the parties in the Apple litigation and the Verizon/AT&T litigation filed a stipulation and proposed order seeking a stay of the Apple litigation and the Verizon/AT&T litigation pending the PTAB’s decisions on whether to institute IPR on the ‘815 and ‘005 patents.

5. In July 2016, this Court granted the parties’ stipulations, ordering a stay of the Apple litigation and the Verizon/AT&T litigation;

6. On November 21, 2016, the PTAB instituted IPR on all asserted claims of the ‘815 patent. (Decision, Institution of *Inter Partes* Review of United States Patent No. 8,542,815, *Apple Inc. v. VoIP-Pal.com, Inc.*, IPR2016-01201 (P.T.A.B. Nov. 21, 2016) at 32);

7. Likewise, on November 21, 2016, the PTAB instituted IPR on all asserted claims of the ‘005 patent. (Decision, Institution of *Inter Partes* Review of United States Patent No. 9,179,005, *Apple Inc. v. VoIP-Pal.com, Inc.*, IPR2016-01198 (P.T.A.B. Nov. 21, 2016) at 31);

8. By statute, the PTAB must issue final written decisions in the ‘815 patent and ‘005 patent IPR proceedings no later than November 21, 2017. 35 U.S.C. § 316(a)(11);

9. On or about December 2016, the Court continued the stay in the Apple litigation and the Verizon/AT&T litigation pending the PTAB’s issuance of final written decisions in the IPR proceedings concerning the ‘815 and ‘005 Patents.

10. In the instant matter, discovery has not yet begun, and a trial date has not yet been set in this matter; and

11. District courts, pursuant to their inherent power to control and manage their own dockets, have discretion to stay an action pending the outcome of reexamination proceedings (including IPR) before the United States Patent and Trademark Office. *Unwired Planet, LLC v. Google Inc.*, No. 3:12-cv-00504-MMD-VPC, 2014 WL 301002, at *5 (D. Nev. Jan. 27, 2014).

Based on the foregoing, the parties agree, with the Court's permission, to stay this litigation pending the PTAB's issuance of final written decisions in IPR proceedings concerning the '815 and '005 patents. Specifically, the parties hereby agree to submit a status report ("Joint Status Report") to the Court by January 26, 2018, outlining the parties' respective positions on how the case should proceed in light of the PTAB's final written decisions. The parties further agree and stipulate to entry of an Order staying litigation in this matter until the Court reviews the Joint Status Report and makes a decision on how to proceed.

DATED the 26th day of January, 2017.

IT IS SO AGREED AND STIPULATED:

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IT IS SO ORDERED:


RICHARD F. BOULWARE, II
United States District Judge

Dated: 1/31/17

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